

**COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION**

Policy Number: 2001-01 Effective Date: December 14, 2001 Revision #: Revision Date: Title: Processing Grievances and Complaints
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PURPOSE

This policy sets forth the procedures required under the Workforce Investment Act (WIA) to address grievances or complaints alleging a violation of the requirements of WIA by the Commonwealth of Virginia, local workforce investment boards or service providers.

This policy does not address the procedures for processing complaints alleging discrimination under WIA section 188 and/or 29 CFR part 37. Such complaints must be handled in accordance with the procedures set forth in that regulatory part. Questions about or complaints alleging a violation of the nondiscrimination provisions of WIA section 188 may be directed or mailed to the Director, Civil Rights Center, U.S. Department of Labor, Room N4123, 200 Constitution Avenue, NW, Washington, D.C. 20210, for processing.

REFERENCES

P.L. 105-220, Workforce Investment Act, Section 181(c).
Federal Register, August 11, 2000, Part II, Department of Labor, Employment and Training Administration, 20 CFR Part 652 et al., Workforce Investment Act; Final Rules, Part 667.600.

DEFINITIONS

The following terms, when used in this policy, have the following meanings unless the context clearly indicates otherwise:

Complainant ~ an individual, group or agency that files a formal complaint alleging violation of the WIA and/or provisions of a related agreement.

Direct Recipient ~ any person or governmental department, agency or establishment that receives WIA funds through a local area in order to carry out WIA programs, but does not include an individual who is a beneficiary of such a program.

Grievant ~ an individual, group or agency that files a formal grievance alleging violation of the WIA and/or provisions of a related agreement.

Participant ~ an individual who has been determined to be eligible to participate in and who is receiving services (except follow-up services authorized under the WIA) under a program

authorized by the WIA. Participation commences on the first day, following determination of eligibility, on which the individual begins receiving subsidized employment, training or other services provided under WIA.

POLICY STATEMENT

Each local area and direct recipient of funds under Title I of WIA, except for Job Corps, must develop a grievance and complaint policy outlining the procedures set forth in *Attachment A: Processing Grievances and Complaints at the Local Level*. The local policy shall provide:

1. A process for dealing with grievances and complaints;
2. An opportunity for an informal resolution to be completed within 30 calendar days of the filing of the grievance or complaint; and
3. An opportunity for the grievant or complainant to appeal the local level decision to the Commonwealth of Virginia when he/she is dissatisfied with the local decision or no decision is reached within 30 calendar days.

The policy developed at the local level must be provided to participants and other interested parties affected by the local workforce investment system, including one-stop partners and service providers. Additionally, the local area must make reasonable efforts to ensure that affected participants, including youth and persons who have limited English proficiency, can understand the policy.

RECISIONS: None

APPROVED: _____
Commissioner, Virginia Employment Commission

DATE: December 14, 2001

ATTACHMENTS:

ATTACHMENT A

Processing Grievances and Complaints at the Local Level

ATTACHMENT B

Processing Appeals of Local Level Grievance and Complaint Decisions at the State Level

**COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION
POLICY NUMBER 2001-01
ATTACHMENT A: PROCESSING GRIEVANCES AND COMPLAINTS AT THE
LOCAL LEVEL**

The grievance and complaint review procedures for the local level apply to alleged violations of the requirements of WIA and/or provisions of a related agreement. These grievances or complaints may be submitted by participants and other interested parties affected by the local workforce investment system, including one-stop partners and service providers.

Filing A Grievance or Complaint

The local area shall provide participants with the name, address and telephone number of the local official to whom grievances and complaints shall be directed. Examples of who may file a grievance or complaint include the following:

1. Applicants and/or registrants for aid, benefits, services or training,
2. Eligible applicants/registrants,
3. Participants,
4. Employers,
5. Applicants for employment under WIA,
6. Service providers or
7. Eligible service providers.

Each grievance or complaint must be filed, in writing, within 30 calendar days of the alleged situation and must contain the following information:

1. The name, address and phone number of the person filing the grievance or complaint;
2. The date of the alleged situation and the date the grievance or complaint was filed;
3. The identity of the respondent (i.e. the individual or entity against whom the grievance or complaint is alleged);
4. A description of the allegations. This description must include enough detail to allow the reviewer to decide whether the allegations, if true, would violate any of the provisions of WIA; and
5. The signature of the person filing the grievance or complaint.

Methods of Resolution/Disposition of Complaints

Upon receipt of the grievance or complaint, the reviewer will provide written notice to the grievant or complainant. This correspondence will be sent within five (5) business days and must include the following:

1. A summary of the allegations submitted;
2. The date, time and place of the meeting or hearing with the reviewer; (***NOTE: The local area may provide for an informal resolution of a grievance or complaint which, if provided, shall be completed in a meeting prior to the hearing date.***)
3. A notice that the grievant or complainant may be represented by an attorney; and
4. A notice that the grievant or complainant may present witnesses and documentary evidence.

The local area has a maximum of 30 calendar days to conduct an investigation of the allegations and offer a resolution.

Notice of Final Action

Once the investigation is complete and a decision has been reached, a Notice of Final Action must be sent to the grievant or complainant. If an informal resolution was provided, the Notice of Final Action must summarize the resolution agreed upon. If no informal resolution was provided, the Notice of Final Action must contain the following information:

1. The reviewer's decision and the reasons supporting the decision;
2. A brief description of the investigation process implored to reach the decision;
3. A notice that, if dissatisfied with the decision, the grievant or complainant may appeal to the Commonwealth of Virginia within 10 business days of receipt of the Notice of Final Action; and
4. A notice that the grievant or complainant may seek a remedy authorized under another Federal, State or local law.

Record Keeping Requirements

Records regarding grievances and complaints must be maintained for at least three years from the date of resolution of the grievance or complaint. All records must include the following:

1. The name and address of the grievant or complainant;

2. A description of the grievance or complaint;
3. The date the grievance or complaint was filed;
4. The disposition (final action);
5. The date of disposition of the grievance or complaint; and
6. Any other pertinent information

To the maximum extent possible, the identity of any person who has furnished information relating to, or assisting in, an investigation of a possible violation of the WIA shall be kept confidential. The information may only be used for purposes of:

1. Record-keeping and reporting;
2. Determining the extent to which an entity is operating its WIA-funded programs or activities in a nondiscriminatory manner; or
3. Other use authorized by the nondiscrimination and equal opportunity provisions of WIA.

**COMMONWEALTH OF VIRGINIA
VIRGINIA EMPLOYMENT COMMISSION
POLICY NUMBER 2001-01
ATTACHMENT B: PROCESSING APPEALS OF LOCAL LEVEL GRIEVANCE AND
COMPLAINT DECISIONS AT THE STATE LEVEL**

The grievance and complaint review procedures for the state level apply to alleged violations of the requirements of WIA and/or provisions of a related agreement. These grievances or complaints may be submitted by participants and other interested parties affected by the local workforce investment system, including one-stop partners and service providers. The Commonwealth of Virginia will review:

1. Appeals of decisions made at the local area level during the grievance and complaint process;
2. Grievances or complaints alleging a violation of the requirements of the WIA and/or provisions of a related agreement, filed by interested parties who have no recourse to the grievance and complaint procedure of a local area, but who are affected by the Virginia Workforce Network programs; and
3. Grievances or complaints from providers of training services who are denied eligibility by a LWIB, denied eligibility as a provider of on-the-job training or customized training by a one-stop operator or whose eligibility is terminated, or otherwise adversely affected, by a LWIB.

Filing an Appeal

Each appeal must be filed, in writing, within 10 business days of the date on which the Notice of Final Action is received and must contain the following information:

1. The name, address and phone number of the person filing the appeal;
2. The identity of the respondent (i.e. the individual or entity against whom the grievance or complaint is alleged);
3. A description of the allegations. This description must include enough detail to allow the reviewer to decide whether the allegations, if true, would violate any of the provisions of WIA;
4. Pertinent dates, including the date on which the grievance or complaint was filed at the local level, the date of the alleged occurrence for which the grievance or complaint was filed and the date a written decision was issued (or should have been issued);
5. If applicable, citations to the provisions of the WIA, the regulations, etc. which are believed to have been violated;

6. A statement disclosing other steps pursued at any level regarding the grievance or complaint in question;
7. A copy of the local Notice of Final Action, if such was rendered; and
8. The signature of the person filing the appeal.

NOTE: The appeal must be accompanied by all documentation submitted to the local area when filing the original complaint. Only information received by the local area during the initial investigation will be allowed as evidence in the appeal process.

Methods of Resolution/Disposition of Complaints

Upon receipt of the written request for appeal and all of the pertinent information outlined above, the reviewer for the Commonwealth of Virginia will provide the grievant, or complainant, and respondent with written acknowledgement of the appeal. This correspondence will be sent within five (5) business days and include both, a summary of the allegations submitted and an offer to resolve the issue informally prior to rendering a decision based on the written records. Finally, the acknowledgement will include a notice that upon review of the documentary evidence presented, the reviewer will make his/her decision.

The reviewer may offer the opportunity to resolve the issue informally prior to rendering a decision based on the written records. If the parties decline this opportunity, the reviewer will accept, reject or modify the decision from the local area based on a review of the evidence. The reviewer may also remand the grievance or complaint to the local level for further investigation. In any case, the reviewer has a maximum of 30 calendar days to review the allegations and offer a resolution.

Notice of Final Action

Once a decision is reached, a Notice of Final Action must be sent to the grievant or complainant and respondent. If an informal resolution was provided, the Notice of Final Action will summarize the resolution agreed upon. If no informal resolution was provided, the Notice of Final Action will contain the following information:

1. The reviewer's decision and the reasons supporting the decision;
2. A notice that, if dissatisfied with the decision, the grievant or complainant may appeal to the Secretary, United States Department of Labor, Washington, DC 20210, Attention: ASET. (This federal appeal must be submitted by certified mail, return receipt requested, within 60 calendar days of receipt of the Notice of Final Action);
3. A notice that copies of appeals submitted to the federal level must be sent to reviewers at the local board and the Commonwealth of Virginia; and

4. A notice that the grievant or complainant may seek a remedy authorized under another Federal, State or local law.

Record Keeping Requirements

Records regarding grievances and complaints must be maintained for at least three years from the date of final resolution. All records must include the following:

1. The name and address of the grievant or complainant;
2. A description of the grievance or complaint;
3. The date the grievance or complaint was filed;
4. The disposition (final action);
5. The date of disposition of the grievance or complaint; and
6. Any other pertinent information

To the maximum extent possible, the identity of any person who has furnished information relating to, or assisting in, an investigation of a possible violation of the WIA shall be kept confidential. The information may only be used for purposes of:

1. Record-keeping and reporting;
2. Determining the extent to which an entity is operating its WIA-funded programs or activities in a nondiscriminatory manner; or
3. Other use authorized by the nondiscrimination and equal opportunity provisions of WIA.